

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
WASHINGTON BOROUGH COUNCIL MINUTES – October 17, 2006**

The Regular Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 8:00 P.M.

Roll Call: Van Deursen, Woykowski, Turner, Housel, Oakley, – Present
Buoye, Glaser – Absent.

Also Present: Richard J. Sheola, Borough Manager
Richard P. Cushing, Esq., Borough Attorney
Clay McEldowney C.M.E., Borough Engineer
Kristine D. Blanchard, RMC, Borough Clerk

The flag salute was led by Mayor Van Deursen.

Mayor Van Deursen read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law of 1975, Chapter 231 have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.

Council Appearance

Marcia Karrow – Assemblywoman, 23rd District

Assemblywoman Marcia Karrow presented to Council an update on some of the issues she is working on in her office. She is extremely happy to report she has had four pieces of legislation signed into law which includes; three farmland bills, and a statewide POW/MIA bracelet program. Assemblywoman Karrow reported that out of one hundred and twenty legislators she has had more legislation opposing the Highlands Act, and legislation to amend the Highlands Act. She feels private property rights are important and the long term ramifications of the Highlands Act will be devastating to this part of the state.

Assemblywoman Karrow stated she has had much success meeting with commissioners on various topics. She explained she and her staff collect agenda items from municipalities in her district and when she has enough, will schedule meetings with the various agencies. She informed Council that if the Borough has any issues, she would be happy to place our needs on her agenda topics for the commissioners.

Assemblywoman Karrow reported that she serves on the Appropriations Committee, Agricultural Committee, and was recently appointed to the UMDNJ Rutgers Study Panel.

Assemblywoman Karrow invited Council to attend the Town Meeting on Education in Clinton on October 18, 2006. Four members of the six member property tax reform committee have refused to discuss Abbott School District Funding. If Abbott

Schools are not discussed it is difficult to discuss property tax reform. This will be a way for people in this area to have a voice on this topic.

Councilman Turner asked Assemblywoman Karrow the best way to receive grants and developmental monies for recreation and park facilities. Assemblywoman Karrow said it is possible to obtain a Small Cities Grant for park development even though funds are running dry in the state. Assemblywoman Karrow also informed council that there is a ballot question in November to dedicate a percentage of the corporate business tax to government assets and recreational facilities. Legislation would have to be written if it passes.

Assemblywoman Karrow suggested applying for a Green Acres Development Grant. Manager Sheola explained the Borough applied this year for a Green Acres grant and was turned down. Melissa Nichols suggested to Council to request a letter of support from the Assemblywoman when applying for a grants.

Mayor Van Deursen stated she is happy to hear that the Assemblywoman is going to fight on behalf of municipalities with respect to property tax reform. School taxes are the biggest portion of property taxes. It is a very difficult situation because people don't really understand that the governing body has little control other than trying to work with the school boards if the budgets are defeated.

At this time Mayor Van Deursen entertained comments and questions from the public for Assemblywoman Karrow.

Martha Potter – Ms. Potter informed Council and Assemblywoman Karrow that the children today seem to require many more fancy parks and gyms than in her generation. Ms. Potter stated that it is not fair for senior citizens to be paying for these things when they can barely afford the property tax bill.

Assemblywoman Karrow informed Council and Ms. Potter that a piece of legislation should be ready to be introduced that will require school boards to wait one year before placing a capital item purchase on the ballot after it has been turned down by the voters.

Councilwoman Woykowski stated that she is pleasantly surprised by the Assemblywoman's raising of constituent services. Councilwoman Woykowski is also very pleased with Assemblywoman's offer of support when applying for grant money. Councilwoman Woykowski asked Assemblywoman Karrow if the Borough Council may contact at her for assistance or questions.

Assemblywoman Karrow stated that she may be contacted at anytime for assistance with issues and/or questions.

Henry Barends – Mr. Barends asked Assemblywoman Karrow if she would be able to assist him with an issue with the Department of Environmental Protection. Mr. Barends gave Assemblywoman Karrow background information on the stream/ditch behind his home that is overgrown with vegetation and needs to be cleaned up. Unfortunately a General Permit 26 is needed to clean the area and could take several months to obtain. Assemblywoman Karrow suggested having her assistant Melissa Nichols contact the DEP; she has a great contact there and may possibly be able to help

the situation. Manager Sheola explained that a General Permit 26 is currently in the process of being filed. Melissa will do what she can to help out with this situation.

Mayor Van Deursen thanked Assemblywoman Karrow for taking the time to discuss the Boroughs concerns and needs.

MINUTES:

Regular Meeting – October 3, 2006

Mayor Van Deursen entertained additions or corrections to the minutes of the regular meeting of October 3, 2006.

Hearing no corrections or changes, it was moved by Glaser, seconded by Turner that the minutes of October 3, 2006 be approved.

Roll Call: Woykowski, Oakley, Turner, Housel and Van Deursen.

Ayes: 5, Nays: 0.

Motion Carried

COMMUNICATIONS:

The following communications were entered into the Record:

1. Virginia Cortese, C.M.C.A. - Statewide Municipal Court Security Police (In Packet)
2. NJLM Re: League Seminar ICS-402 Incident Command or Executives.
3. NJLM Re: Increase in Fees for Organizations Conducting Legalized Games of Chance
4. NJLM Re: Important Conference Sessions Public Safety and Human Rights.
5. NJLM Re: Showcase your Municipality.
6. Comcast Re: Local Sports Programming
7. NJLM Re: Sales Tax on Municipal Parking
8. DARCC Re: Donation for 2007
9. NJLM Re: Important Conference Sessions Taxation and Budgeting.
10. NJLM Re: Mandatory Consolidation Process Issues.
11. Warren County Recycling News (In Packet)

Manager Sheola stated the Municipal Court security policy is a state mandate. The Borough has funds available to purchase a few of the handheld screening security devices. The only way we can effectively screen people coming in the court is screening them as they enter the building or at the bottom of the stairs.

Councilman Turner suggested Council obtain a copy of correspondence number ten on Mandatory Consolidation Process Issues.

Hearing no further comments it was moved by Turner, seconded by Housel that the communications numbered #1 thru #11 be acknowledged, received and filed.

Ayes: 5, Nays: 0.

Motion carried.

AUDIENCE:

Mayor Van Deursen entertained remarks from the audience on items that do not appear on the meeting agenda.

Paul Terrick – 72 Lenape Trail

Mr. Terrick requested Council to investigate the drawings and planning for the 12 foot pipe for the sewer easement that was not on the original drawings. Mr. Terrick stated he brought drawings for Council to review and the survey from when he purchased the property. Mr. Terrick stated the sewer easement is on the survey, but the 12 ft. pipe is not. Mr. Terrick stated he would like Council to investigate the original plans for the sewer easement and why there is a discrepancy on the original plans which shows the pipe in a different area.

Manager Sheola stated with the trees and shrubs the Borough has purchased for the area most of the pipe will be concealed.

Mayor Van Deursen suggested that Mr. Terrick set up a meeting with the Borough Manager to review the original plans and to discuss where trees will be planted to best conceal the vent pipe.

Grace McGinnis – 57 Grand Avenue

Ms. McGinnis asked Council for clarification on the overnight parking ordinance; she has noticed a lot of people parking overnight recently. Mayor Van Deursen stated that unless there is a permit obtained or dispatch is telephoned, no one is permitted to park on the street overnight. The regulation is waived on Saturday evening. Ms. McGinnis thanked Council for the clarification.

Dawn Higgins, Recreation Chairwoman 113 Harding Drive

Mrs. Higgins asked Council for an update on the sod installation at Vara Field. Mayor Van Deursen asked Borough Engineer, Clay McEldowney for a status on the sod at Vara Field.

Borough Engineer, Clay McEldowney stated he wasn't aware that their had been a commitment to install the sod. Manager Sheola reported that he was informed by Judy Kopen, Esq. that the developer agreed to install the sod but there was a concern about watering the sod. Borough Attorney, Richard Cushing stated that there was a willingness

on the part of the developer to install the sod. The Borough had already decided that it would make the necessary provision to water the sod as long as they could have it installed by the developer. Borough Attorney, Richard Cushing further explained that there are a number of items on the punch list that have not been fully resolved. An evaluation of the punch list items needs to be done by the Borough Engineer before a decision is made on the sod.

Mrs. Higgins voiced her concerns over the timing of the punch list. A final decision will need to be made very shortly. Mrs. Higgins explained it is getting too late in the year to put the sod down. Borough Attorney, Richard Cushing stated a judgment call needs to be made by the Borough as to what the financial ramifications are of giving up items on the punch list vs. accepting the sod.

Mayor Van Deursen requested Borough Attorney, Richard Cushing and Borough Engineer, Clay McEldowney to stay on top of the situation with respect to getting the punch list items and trying to resolve the issue.

Councilman Turner suggested making arrangements with Washington Township for the watering system so that it will be available when the sod is ready to be installed.

Martha Potter 33 Riverdale Ave

Ms. Potter voiced concerns regarding the “WALK” or “DON’T WALK” sign on Rt. 57 and Broad Street. Ms. Potter was recently struck by a vehicle while crossing the street. At the time she was struck by the vehicle the sign indicated “WALK”.

Councilman Turner suggested the Borough Manager or Borough Engineer check the timing on the electronic sign. Mayor Van Deursen agreed and requested the Borough Manager call the Department of Transportation to find out if the sign has an electronic timer in it.

Dawn Higgins 113 Harding Drive

Mrs. Higgins addressed Council again to make sure Council received her email about more vandalism in the park. She wanted to make sure Council was still directing the Police Chief to increase police presence in the park. Manager Sheola stated the Police Chief is having patrol cars go through the park as much as possible and doing a walk through whenever the patrolmen are able.

Councilman Turner asked Mrs. Higgins if signs are in the park stating hours of operation, basic rules of the park, etc. Mrs. Higgins stated there are signs visible in the park.

Mayor Van Deursen suggested that Mrs. Higgins, Manager Sheola, and the Police Chief meet to discuss vandalism in the parks and ways to stop the ongoing vandalism.

Hearing no further remarks from the audience, it was moved by Housel, seconded by Woykowski that the audience portion of the meeting be closed.

Ayes: 5, Nays: 0.

Motion carried.

ORDINANCES:

Ordinance 17-2006 – Washington Borough Stormwater Management Ordinance – An Ordinance to Amend the Code of the Borough of Washington Chapter 57 (Final Reading)

An ordinance to amend the code of the Borough of Washington Chapter 57 was introduced by Councilman Housel.

It was further moved by Housel, seconded by Oakley that the Clerk read Ordinance #17-2006 title only.

Roll Call: Oakley, Turner, Van Deursen, Housel and Woykowski.

Ayes: 5, Nays: 0.

Motion carried.

The Clerk read Ordinance #17-2006 by title only and stated that this ordinance was published in the Star Gazette as prescribed by law, a copy was posted on the bulletin board and copies available in the Clerk's office upon request.

Mayor Van Deursen opened up the public hearing portion of the ordinance for the audience to ask questions.

Hearing no remarks from the audience, it was moved by Housel, seconded by Turner that the public hearing portion of the audience be closed.

Ayes: 5, Nays: 0.

Motion carried.

Council Discussion:

Councilman Turner expressed concerns over an additional fee for stormwater management. Borough Engineer, Clay McEldowney stated his understanding is there would be no additional fee if there is an applicant in front of one of the Boards. The review fee would be incorporated in the review fee that is already in place in the land use ordinance. The fee would only be for a stormwater management applicant who is not in front of one of the Boards.

Councilman Turner stated he feels that \$500.00 is excessive. Mr. McEldowney stated the \$500.00 is justified due to the fact the regulations are quite complex.

Hearing no further discussion, it was moved by Housel, seconded by Oakley that Ordinance #17-2006 be adopted on final passage and that final publication be made as prescribed by law.

Roll Call: Woykowski, Housel, Van Deursen, Oakley, and Turner.

Ayes: 5, Nays: 0.

Motion carried.

ORDINANCE 17-2006

WASHINGTON BOROUGH STORMWATER MANAGEMENT ORDINANCE An ordinance to amend the Code of the Borough of Washington

Chapter 57 of the Washington Borough Ordinances **STORMWATER MANAGEMENT**

§ 57-1 Scope, Purpose and Fees

A. Policy Statement

Stormwater Management is the process of minimizing stormwater runoff and directing stormwater appropriate nonstructural and structural stormwater management measures so as to control flooding, recharge ground water and reduce pollution of water- resources. Transport of stormwater-related pollutants into local surface and ground waters can result in: the destruction of fish, wildlife, and habitats; threats to public health due to contaminated food and drinking water supplies; and losses of recreational and aesthetic values. Stormwater management shall occur with the understanding and acceptance of stormwater as a resource; low impact and non-structural measures shall be tailored to a site and applied wherever and to the extent feasible.

B. Purpose

The purpose of this ordinance is to establish minimum stormwater management requirements and controls for major development and to reduce the amount of nonpoint source pollution entering surface and ground waters. This ordinance guides new development in a manner that is proactive and minimizes harmful impacts to natural resources. Specifically, this ordinance shall:

- (1) Reduce artificially induced flood damage to public health, life, and property;

- (2) Minimize increased stormwater runoff rates and volumes;
- (3) Minimize the deterioration of existing structures that would result from increased rates of stormwater runoff;
- (4) Induce water recharge into the ground wherever suitable infiltration, soil permeability, and favorable geological conditions exist;
- (5) Prevent an increase in nonpoint source pollution;
- (6) Maintain the integrity and stability of stream channels and buffers for their ecological functions, as well as for drainage, the conveyance of floodwater, and other purposes;
- (7) Control and minimize soil erosion and the transport of sediment;
- (8) Minimize public safety hazards at any stormwater detention facility constructed pursuant to subdivision or site plan approval;
- (9) Maintain adequate baseflow and natural flow regimes in all streams and other surface water bodies to protect the aquatic ecosystem;
- (10) Protect all surface water resources from degradation; and
- (11) Protect ground water resources from degradation and diminution.

C. Applicability

- (1) This ordinance shall be applicable to all site plans and subdivisions for the following major developments that require preliminary or final site plan or subdivision review:
 - a) Non-residential major developments; and
 - b) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards (RSIS) at N.J.A.C. 5:21. The provisions of both this ordinance and the RSIS are to be applied and reviewed concurrently for any residential major development.
 - c) In the case of agricultural or horticultural development that meets the definition of "major development" under N.J.A.C. 7:8, a farm conservation plan that addresses the protection of soil and water resources shall be developed and implemented. Such a plan shall be approved by the Warren County Soil Conservation District.

- (2) This ordinance shall also be applicable to all major developments undertaken by the Borough of Washington.
- (3) This ordinance does not apply to activities of Warren County, the State of New Jersey and the government of the United States of America when those activities are specifically exempted from municipal regulation by relevant State or Federal law.

D. Review and Inspection Fees

(1) Review Fees

- a) When stormwater management plans are required to be prepared and submitted for review and approval under this ordinance, and when such plans are submitted for review and approval in conjunction with an application for development approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq, then no additional and separate review fee shall be required. The costs for professional review of the stormwater management plan will be deducted from the review escrow account established for the development application in accordance with the applicable provisions of the Development Regulation.
- b) A review fee of \$500 shall be paid to the Borough whenever:
 - 1. A Stormwater management plan is required to be prepared and submitted for review and approval under this ordinance, and such plan is not submitted for review and approval in conjunction with an application for development approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
 - 2. A revised stormwater management plan is submitted for review and approval subsequent to the approval of a development application by the Planning Board or Board of Adjustment, and when revisions to a previously approved stormwater management plan are necessitated by field conditions or other modifications to the development proposal.

(2) Inspection Fees

- a) When stormwater management improvements are constructed in conjunction with other site improvements associated with an approved major subdivision or site plan, then no additional and

separate construction inspection escrow account shall be required.

- b) When stormwater management improvements are constructed in conjunction with a minor subdivision approval, or variance approval for which no site plan was required, then a construction inspection escrow account shall be established with the Borough in the manner as provide in the Development Regulation and in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

E. Compatibility with Other Permit and Ordinance Requirements

- (1) Development approvals issued for subdivisions and site plans pursuant to this ordinance are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance shall be construed to assure consistency with the requirements of New Jersey laws and acts amendatory thereof or supplementary thereto, applicable implementing regulations, and any existing or future municipal NJPDES Permits and any amendments or revisions thereto or re-issuance thereof. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

§ 57-2 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application. Where common definitions exist, the definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“Agriculture or horticulture” or “Agricultural or horticultural use” means the use of the land for common farmsite activities including but not limited to production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, and water management, and grazing.

“Agricultural or horticultural development” means construction for the purposes of supporting common farmsite activities, including but not limited to: the production, harvesting, storage, grading, packaging, processing, and the wholesale and retail marketing of crops, plants, animals, and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease, and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing.

“Category 1 (C1) Waters” means Waters of the State, including unnamed waterways that appear on Soil Survey and USGS Topographic Quadrangle within the same HUC 14 watershed, designated in NJAC 7:9B-1.15 (c) through (h) for purposes of implementing the anti-degradation policies set forth at NJAC 7:9B-1.5(d) for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources(s).

“Compaction” means the increase in soil bulk density caused by subjecting soil to greater-than-normal loading. Compaction can also decrease soil infiltration and permeability rates.

“Core” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“County review agency” means the Warren County Planning Board, as designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s).

“Department” means the New Jersey Department of Environmental Protection.

“Designated Center” means a State Development and Redevelopment Plan Center, such as urban, regional, town, village, or hamlet, as designated by the State Planning Commission.

“Design engineer” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, by any person, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. In the case of development of agricultural lands,

development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A 4:1C-1 et seq.

“Disturbance” means any activity including the clearing, excavating, storing, grading, filling or transportation of soil or any other activity that causes soil to be exposed to the danger of erosion.

“Drainage area” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“Environmentally critical area” means an area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; well head protection areas; and ground water recharge areas. Habitats of endangered or threatened species are those identified by the Department’s Landscape Project as approved by the Department’s Endangered and Nongame Species Program, or by the Department pursuant to the Highlands Act at NJSA 13:20-32k. and 13:20-34a(4).

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

“Ground water” means a body of water below the surface of the land in a zone of saturation where the spaces between the soil or geological materials are fully saturated with water.

“Highlands Act” means the Highlands Water Protection and Planning Act, P.L. 2004, c.120, codified at N.J.S.A. 13:20-1 et. seq. as amended.

“HUC-14” means a watershed as defined by the United States Geological Survey with a 14-digit identifier; a subwatershed.

“Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water relative to natural conditions in the area.

“Infiltration” is the process by which water from precipitation seeps into the soil to a level below the normal root soil of plant species.

”Karst Terrain” means an area where karst topography, with its characteristic surface and subterranean features, is developed as a result of the dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst

terrains include but are not limited to sinkholes, sinking streams, caves, blind valleys, large springs and subterranean drainage. See also limestone area.

“Limestone area” means an area of Warren County underlain by carbonate sedimentary rock consisting chiefly of calcium carbonate. Limestone is commonly used as a general term for the class of rocks that consist of at least 80 percent calcium or magnesium carbonate. See also karst terrain.

“Low Impact Development” (LID) means methods incorporating design measures to replicate pre-development hydrology to reduce the impacts of development at a lot-level basis, treating rainwater where it falls by creating conditions that allow the water to infiltrate back into the ground. LID emphasizes greater infiltration of stormwater on-site rather than regarding the stormwater as a nuisance condition and disposable.

“Maintenance Plan” means a document required for all major development projects for stormwater management maintenance. The document shall contain specific preventive maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventive and corrective maintenance (including replacement).

“Major development” means any “development” that provides for ultimately disturbing one or more acres of land or would create one-quarter acre or more of impervious surface.

“Maximum Extent Practicable” means compliance with the specific objective to the greatest extent possible taking into account equitable considerations and competing factors, including but not limited to, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement given site-specific environmental conditions, cost and technical or engineering feasibility.

“Mitigation” means an action by an applicant -providing compensation or offset actions for onsite stormwater management requirements where the applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in this local ordinance, and has received a waiver from strict compliance from the municipality. Mitigation, for the purposes of this ordinance, includes both the mitigation plan detailing how the project’s failure to strictly comply will be compensated, and the implementation of the approved mitigation plan within the same HUC-14 within which the subject project is proposed (if possible and practical), or a contribution of funding toward a regional stormwater control project, or provision for equivalent treatment at an alternate location, or other equivalent water quality benefit.

“Municipality” means any city, borough, town, township, or village.

“Node” means an area designated by the State Planning Commission concentrating facilities and activities that are not organized in a compact form.

“Nonstructural Stormwater Management Techniques” means techniques that control or reduce stormwater runoff in the absence of stormwater structures (e.g., basins and piped conveyances), such as minimizing site disturbance, preserving important site features including, but not limited to, natural vegetation, reducing and disconnecting impervious cover, minimizing slopes, utilizing native vegetation, minimizing turf grass lawns, increasing time of concentration and maintaining and enhancing natural drainage features and characteristics.

“Nutrient” means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of plants, algae and other organisms or vegetation.

”Nutrient load” means the total amount of a nutrient such as nitrogen or phosphorus entering the water during a given time, such as "tons of nitrogen per year", or "pounds of phosphorus per day." Nutrients may enter the water from runoff, ground water recharge, point source discharges, or the air (in the form of wet deposition such as rain or snow as well as dry deposition).

”Nutrient concentration” means the amount of a nutrient in a defined volume of water (such as milligrams of nitrogen per liter). The relationship between nutrient concentration and nutrient load can vary and depends on the surface water flow, the volume of water in the water body or aquifer, and watershed characteristics.

“Permeable” means a surface or land cover capable of transmitting or percolating a significant amount of precipitation into the underlying soils.

”Person” means any individual, corporation, company, partnership, firm, association, [insert name of municipality], or political subdivision of this State subject to municipal jurisdiction pursuant to the Municipal Land Use Law , N.J.S.A. 40:55D-1 et seq.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. “Pollutant” includes both hazardous and nonhazardous pollutants.

“Pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water to the extent that the pollutant

concentration or level violates either the Ground Water Quality Standards (N.J.A.C. 7:9-6) or the Surface Water Quality Standards (N.J.A.C. 7:9B) of New Jersey.

“Recharge” means the amount of water from precipitation that infiltrates into the ground, and becomes part of a ground water body.

“Review agency (municipal)” means the municipal body or official that is responsible for the review of a major development project for compliance with the stormwater management requirements.

“Sediment” means solid material, mineral or organic, that is in suspension and is being transported or has been moved from its site of origin by air, water or gravity as a product of erosion.

“Site” means the lot or lots upon which a major development is to occur or has occurred.

“Soil” means all unconsolidated mineral and organic material of any origin.

“Solid and floatable materials” means sediment, debris, trash, and other floating, suspended, or settleable solids.

”Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing, or other industrial activities, that could be a source of pollutants in any industrial stormwater discharge to ground or surface water. Source materials include, but are not limited to raw materials, intermediate products, final products, waste materials, by-products, industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

“Special Resource Waters” means water bodies receiving special protections due to their drinking water status or role as high-quality habitat for Threatened and Endangered species or species of commercial or recreational importance. This includes waterways so designated through the NJ Stormwater Management Rules (N.J.A.C. 7:8) because of exceptional ecological significance, exceptional water supply significance, exceptional recreational significance, exceptional shellfish resource, or exceptional fisheries resource. Waters so designated are protected by a 300-foot buffer extending on either side of the waterway measured perpendicular from top-of-bank or center of channel for waterways lacking a defined top-of-bank.

“State Development and Redevelopment Plan Metropolitan Planning Area (PA1)” means an area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state’s future redevelopment and revitalization efforts.

“State Plan Policy Map” is defined as the geographic application of the State Development and Redevelopment Plan’s goals and statewide policies, and the official map of these goals and policies.

“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

“Stormwater runoff” means the flow of stormwater on or across the surface of the ground, in drainage facilities or in storm sewers.

“Stormwater management basin” means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management basin may either be normally dry (that is, a detention basin or infiltration basin), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (a constructed stormwater wetland).

“Stormwater management measure” means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or ground water recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

“Stream buffer” means a strip of land located immediately adjacent to a stream channel consisting of natural, undisturbed vegetative cover, which serves as a transition area between uplands and riparian lands. A stream buffer may encompass wetlands, may be contained within a flood plain or floodway or may extend beyond a wetland, floodplain or floodway boundary.

“Structural Stormwater Techniques” means a stormwater management measure that involves control of concentrated stormwater runoff or infiltration such as stormwater basins, piped conveyance systems and manufactured stormwater devices, and can include various types of basins, filters, surfaces, and devices located on individual lots in a residential development or throughout a commercial, industrial, or institutional development site in areas not typically suited for larger, centralized structural facilities.

”Threatened and Endangered Species” – Endangered Species are those whose prospects for survival in New Jersey are in immediate danger because of a loss or change in habitat, over-exploitation, predation, competition, disease, disturbance or contamination. Assistance is needed to prevent future extinction in New Jersey. Threatened Species are those who may become endangered if conditions surrounding them begin to or continue to deteriorate. Habitats of endangered or threatened species are those identified by the Department’s Landscape Project as approved by the

Department's Endangered and Nongame Species Program, or by the Department pursuant to the Highlands Act at NJSA 13:20-32k. and 13:20-34a(4).

"Time of concentration" is defined as the time it takes for stormwater runoff to travel from the hydraulically most distant point of the watershed to the point of interest within a watershed.

"Transition area" means an area of protected upland adjacent to a freshwater wetland that minimizes adverse impacts on the wetland or serves as an integral component of the wetlands ecosystem. Also called "buffer" area.

"Urban Redevelopment Area" is defined as previously developed portions of areas delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1); Designated Centers, Cores or Nodes.

"Waters of the State" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

"Wetlands" or "wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

§ 57-3 General Standards.

Design and Performance Standards for Stormwater Management Measures

- A. Stormwater runoff control, groundwater recharge and pollutant reduction through nonstructural or low impact development techniques shall be fully explored before relying on structural BMPs. Structural BMPs should be integrated with nonstructural stormwater management measures and proper maintenance plans. Nonstructural measures include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site. Source control plans should be developed based upon physical site conditions and the origin, nature, and the anticipated loading of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity and groundwater recharge.

Stormwater management measures for major development shall be developed to meet the erosion control, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality standards in this Article. To the maximum extent practicable, these standards shall be met by incorporating nonstructural stormwater management strategies into the design. If these strategies alone are not sufficient to meet these standards, structural stormwater management measures

necessary to meet these standards shall be incorporated into the design along with the practicable nonstructural strategies.

- B. The standards in this ordinance apply to both new major development and redevelopment and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain ground water recharge. The standards do not apply to major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§ 57-4 Stormwater Management Requirements for Major Development.

- A. Nonstructural Stormwater Management Strategies
 - 1. To the maximum extent practicable, the standards in Subsections B and C shall be met by incorporating nonstructural stormwater management strategies set forth in this subsection into the design. The applicant shall identify the nonstructural measures incorporated into the design of the project. Documentation of the use of nonstructural stormwater management measures shall require the preparation by the applicant of the NJDEP Low Impact Development checklist and the Nonstructural Strategies Point System (NSPS) spreadsheet. If the applicant contends that it is not feasible for engineering, environmental, or safety reasons to incorporate any or only specific nonstructural stormwater management measures identified in Subsection A.2 below into the design of a particular project, the applicant shall identify the strategy or strategies considered and provide a basis for the contention. In both cases, the applicant bears the burden of proving any impracticability.
 - 2. Nonstructural stormwater management strategies incorporated into site design shall:
 - A. Protect areas that provide water quality benefits or areas particularly susceptible to erosion and sediment loss;
 - B. Minimize the creation of new impervious surfaces and reduce, break up or otherwise disconnect the flow of runoff over impervious surfaces;
 - C. Maximize the protection of natural drainage features and vegetation, except where native or natural vegetation is considered invasive;
 - D. Minimize the decrease in the "time of concentration" from pre-construction to post construction;

- E. Minimize land clearing and disturbance and overall site grading;
 - F. Minimize soil compaction;
 - G. Retain native, non-invasive vegetation, plant low-maintenance landscaping, plant native vegetation, and minimize the creation of lawns and the use of plantings and vegetation that require the excessive use of fertilizers, pesticides and irrigation;
 - H. Provide vegetated open-channel conveyance systems discharging into and through stable vegetated areas;
 - I. Provide other source controls to prevent or minimize the use, exposure and/or mobilization of pollutants and prevent or minimize the release and transport of those pollutants into stormwater runoff. Such source controls include, but are not limited to:
 - (1) Site design features that help to prevent accumulation of trash and debris in drainage systems, including features that satisfy Section A.3 below;
 - (2) Site design features that help to prevent discharge of trash and debris from drainage systems;
 - (3) Site design features that help to prevent and/or contain spills or other harmful accumulations of pollutants at industrial or commercial developments; and
 - (4) When establishing vegetation after land disturbance, application of fertilizer in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules. Prior to applying fertilizer, soil tests must be conducted onsite to determine the type of fertilization necessary.
3. Site design features identified under Section A.2.i.(2) above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For exemptions to this standard see Section A.3.c below.
- A. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

- (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.
- B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.
- C. This standard does not apply:
- (1) Where the review agency determines that this standard would cause inadequate hydraulic performance that could not practically be overcome by using additional or larger storm drain inlets that meet these standards;
 - (2) Where flows from the water quality design storm as specified in Section C.1 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - (a) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - (b) A bar screen having a bar spacing of 0.5 inches.
 - (3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1”) spacing between the bars, to the elevation of the water quality design storm as specified in Section 57-4 C.1; or
 - (4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

4. Any land area used as a nonstructural stormwater management measure to meet the performance standards in Sections B and C shall be:
 - A. dedicated to a government agency;
 - B. subjected to a conservation restriction filed with the Warren County Clerk's office; or
 - C. subject to an approved equivalent restriction that ensures that measure or an equivalent stormwater management measure approved by the reviewing agency is maintained in perpetuity.
 5. Guidance for nonstructural stormwater management strategies is available in the New Jersey Stormwater Best Management Practices Manual. The BMP Manual may be obtained from the address found on the Department's website at www.njstormwater.org.
- B. Erosion Control, Ground Water Recharge and Stormwater Runoff Quantity Control Standards
1. This subsection contains minimum design and performance standards to control erosion, maintain ground water recharge, and control stormwater runoff quantity impacts of major development projects.
 - A. The minimum design and performance standards for erosion control are those established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules.
 - B. The minimum design and performance standards for ground water recharge are as follows:
 - (1) Using the criteria for calculating stormwater runoff and ground water recharge in Section 57-5 B, the design engineer shall comply with at least one of the following standards:
 - (a) Demonstrate through hydrologic and hydraulic analysis that the post-developed project site maintains 100 percent of the site's pre-developed average annual ground water recharge volume; or
 - (b) Demonstrate through hydrologic and hydraulic analysis that any increase in the project site's projected stormwater runoff volume produced by the 2-Year, 24-hour storm from pre-developed to post-developed conditions is fully infiltrated.

- (2) Ground water recharge is not required at major development projects located within an “urban redevelopment area” as defined in Section 57-2 or from those portions of major development projects that produce stormwater runoff described in (c) below.
- (3) The following two types of stormwater runoff shall not be recharged:
 - (a) Stormwater runoff from areas of high pollutant loading. High pollutant loading areas are:
 - (i) areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied;
 - (ii) areas where pesticides are loaded/unloaded or stored;
 - (iii) areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; and
 - (iv) areas where recharge would be inconsistent with a Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities.
 - (b) Stormwater runoff from industrial areas exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.
- (4) The design engineer shall assess and certify the hydraulic impact on the ground water table and design the project site and all site ground water recharge measures so as to avoid adverse hydraulic impacts. Adverse hydraulic impacts include, but are not limited to, raising the ground water table so as to cause surface ponding, flooding of basements and other subsurface facilities, and

interference with the proper operation of subsurface sewage disposal systems and other subsurface structures in the vicinity of a ground water recharge measure.

- (a) The minimum design and performance standards for the control of stormwater runoff quantity are as follows:
 - (1) Using the criteria for calculating stormwater runoff and ground water recharge in Section 57-5, the design engineer shall comply with at least one of the following standards:
 - (a) Demonstrate through hydrologic and hydraulic analysis that the post-developed stormwater runoff hydrographs from the project site for the 2, 10, and 100-Year storms do not exceed, at any point in time, the site's pre-developed runoff hydrographs for the same storms;
 - (b) Demonstrate through hydrologic and hydraulic analysis that under post-developed site conditions: 1) there is no increase in pre-developed stormwater runoff rates from the project site for the 2, 10, and 100-Year storms; and 2) any increased stormwater runoff volume or change in stormwater runoff timing for these storms will not increase flood damage at or downstream of the project site. When performing this analysis for pre-developed site conditions, all off-site development levels shall reflect existing conditions. When performing this analysis for post-developed site conditions, all off-site development levels shall reflect full development in accordance with current zoning and land use ordinances.
 - (c) Design onsite stormwater management measures so that the peak post-developed stormwater runoff rates from the project site for the 2, 10 and 100-Year storms are 50, 75 and 80 percent, respectively, of the site's peak pre-developed stormwater runoff rates. Peak stormwater outflow rates for these storms shall be adjusted where necessary to account for the discharge of increased stormwater runoff rates and/or volumes from project site areas not controlled by the onsite measures. The percentages do not have to be applied to those portions of the project site that are not proposed for development at the time of application provided that such areas are:

40	0.1660	105	1.2250
45	0.2000	110	1.2334
50	0.2583	115	1.2417
55	0.3583	120	1.2500
60	0.6250		

3.

purposes of TSS reduction calculations, Table 2 below presents the presumed removal rates for certain BMPs designed, constructed and maintained in accordance with the New Jersey Stormwater Best Management Practices Manual, subject to revision due to subsequent rule changes. The current edition of the BMP Manual may be obtained from the address identified in Section 57-7, or found on the Department’s website at www.njstormwater.org. The BMP Manual and other sources of technical guidance are listed in Section 57-7. TSS reduction shall be calculated based on the removal rates for the BMPs in Table 2 below. Alternative BMPs, removal rates and methods of calculating removal rates may be approved if the design engineer provides documentation demonstrating the capability of these alternative BMPs, removal rates and computational methods to the review agency. Documentation for alternative rates and methods shall consist of published (peer-reviewed) journal article or scientific paper. A copy of any approved alternative rate or method of calculating the removal rate, including documentation, shall be provided to the Department at the following address: Division of Watershed Management, New Jersey Department of Environmental Protection, PO Box 418 Trenton, New Jersey, 08625-0418.

4. If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (AXB)/100; \quad \text{where}$$

R = total TSS percent load removal (expressed as a whole number) from application of both BMPs, and

A = the TSS percent removal rate (whole number) applicable to the first (upstream) BMP

B = the TSS percent removal rate (whole number) applicable to the second (downstream) BMP

In cases where three (or more) BMPs are used in series, the applicant shall calculate the TSS reduction for the two most upstream BMPs in the series using the above formula, then substitute the result (R) of that calculation in the formula for “A” when calculating the combined result with the next BMP in the series.

Best Management Practice	TSS Percent Removal Rate
Bioretention Systems	90
Constructed Stormwater Wetland	90
Extended Detention Basin	40-60
Infiltration Structure	80
Manufactured Treatment Device	See Section 115-164.C
Sand Filter	80
Vegetative Filter Strip	60-80
Wet Pond	50-90

5. **If there is more than one onsite drainage area, the 80 percent TSS removal rate shall apply to the discharge of each drainage subarea, unless the runoff from the subareas converge on site, in which case the removal rate can be demonstrated through a calculation using an area-weighted average.**

6. **Stormwater management measures shall also be designed to reduce, to the maximum extent practicable, the post-construction nutrient load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent practicable, the design of the site shall include nonstructural strategies and structural measures that optimize nutrient removal while still achieving the performance standards in Sections 57-4 B and 57-4 C. This standard may be superseded by a more stringent numeric effluent limitation imposed under the New Jersey Pollution Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Daily limits for nutrient loading (TMDL) may apply to the site development based on conditions of regulatory approvals.**

7. **Additional information and examples are contained in the New Jersey Stormwater Best Management Practices Manual, which may be obtained from the address identified in Section 57-7.**

8. **In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff and any new stormwater discharge point to waters classified as FW1.**

9. **Special water resource protection areas shall be established along all waters designated Category One at N.J.A.C. 7:9B, and along all perennial or intermittent streams that drain into or upstream of the**

Category One waters as shown on the USGS Quadrangle Maps or in the County Soil Surveys, within the associated HUC14 drainage area. Other authoritative sources of stream delineation may be utilized, such as a delineation that is part of the Municipal or Regional Stormwater Management Plan or a stream delineation overlay prepared by the Department. These areas shall be designated and protected as follows:

- A. **The applicant shall preserve and maintain a special water resource protection area in accordance with one of the following, unless superseded by a local Stream Corridor Protection Ordinance:**
- (1) **A 300-foot special water resource protection area shall be provided on each side of the waterway, measured perpendicular to the waterway from the top of the bank outwards or from the centerline of the waterway where the bank is not defined, consisting of existing vegetation or vegetation allowed to follow natural succession.**
 - (2) **Encroachment within the designated special water resource protection area under Subsection (1) above shall only be allowed where previous development or disturbance has occurred (for example, pre-existing active agricultural use, parking area or maintained lawn area). The encroachment shall only be allowed where the applicant demonstrates to the satisfaction of the review agency that the functional value and overall condition of the special water resource protection area will be maintained to the maximum extent practicable. In no case shall the remaining special water resource protection area be reduced to less than 150 feet as measured perpendicular to the top of bank of the waterway or centerline of the waterway where the bank is undefined. All encroachments proposed under this subparagraph shall be subject to review and approval by the Department.**
- B. **All special water resource protection areas as required above shall be set aside and reserved as a natural stream buffer. Where the special water resource protection area has been previously disturbed by agriculture or development, the stream buffer shall be suitably planted with native vegetation and plant materials. The special water resource protection area shall also be protected from future development and disturbance by the creation of by a**

natural area conservation easement in a form approved by the Borough (see Appendix A attached hereto).

- C. **The special water resource protection area and natural area conservation easement shall be delineated on the ground by the installation of survey markers at all deflection points along the conservation easement boundary, and at all intersections of the conservation easement lines with property lines. The easement shall also be delineated on the ground by the installation of post-and-wire or wood post-and-rail fencing, or other fencing as approved by the Borough.**
- D. **All stormwater shall be discharged outside of and flow through the special water resource protection area and shall comply with the Standard for Off-Site Stability in the “Standards For Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.**
- E. **If stormwater discharged outside of and flowing through the special water resource protection area cannot comply with the Standard For Off-Site Stability in the “Standards for Soil Erosion and Sediment Control in New Jersey,” established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq., then the stabilization measures in accordance with the requirements of the above standards may be placed within the special water resource protection area, provided that:**
- (1) Stabilization measures shall not be placed within 150 feet of the Category One waterway;**
 - (2) Stormwater discharges allowed by this section shall achieve a 95 percent TSS post-construction removal rate;**
 - (3) Thermal pollution by stormwater discharges shall be addressed to ensure no significant increase or decrease in temperature occurs in the receiving waterway outside of the mixing zone;**
 - (4) The encroachment shall only be allowed where the applicant demonstrates to the satisfaction of the review agency that the ecological value and condition of the special water resource protection area will be**

maintained to the maximum extent practicable;

(5) A conceptual project design meeting shall be held with the appropriate Department staff and Soil Conservation District staff to identify necessary stabilization measures; and

(6) All encroachments proposed under this section shall be reviewed and approved by the Department prior to approval by the review agency.

F. A stream corridor protection plan for a waterway subject to Subsection 57-4 C.9 shall maintain or enhance the current ecological value and condition of the special water resource protection area as defined in Subsection 57-4 C.9 above. In no case shall a stream corridor protection plan allow the reduction of the Special Water Resource Protection Area to less than 150 feet as measured perpendicular to the waterway subject to this subsection.

G. Subsection 57-3 C.9 does not apply to the construction of one individual single family dwelling that is not part of a larger development and is on a lot receiving preliminary or final subdivision approval on or before February 2, 2004, provided that the construction begins on or before February 2, 2009.

D. Maintenance Plan

The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with Section 57-10.

E. Exemptions

The following linear development projects are exempt from the ground water recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 57-4 B and 57-4 C:

1. The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
2. The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and

3. **The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is constructed of permeable material such as wood chips, unpacked gravel, and porous pavement (See Section 57-7 for guidance).**

F. Waivers from Strict Compliance

1. **A waiver from strict compliance with the ground water recharge, stormwater runoff quantity, and stormwater runoff quality requirements of Sections 57-4 B and 57-4 C may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:**
 - A. **The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;**
 - B. **The applicant demonstrates, through an alternatives analysis acceptable to the review agency, that through the use of nonstructural and structural stormwater management strategies and measures, the option selected complies with the requirements of Sections 57-4 B and 57-4 C to the maximum extent practicable;**
 - C. **The applicant demonstrates that, in order to meet the requirements of Sections 57-4 B and 57-4 C, existing structures currently in use, such as homes and buildings, would need to be condemned; and**
 - D. **The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under F.1.c. above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of Sections 57-4 B and 57-4 C that were not achievable on-site.**
2. **A waiver from strict compliance with the requirements of Sections 57-4 B and 57-4 C may be issued in those cases where an applicant has demonstrated the inability or impracticality of strict compliance, other than projects addressed under Subsection 57-4 F.1, with the stormwater management requirements set forth in NJAC 7:8, in an adopted regional stormwater management plan, or in a local ordinance which is as strict as NJAC 7:8. A waiver from strict compliance for such projects can only be obtained if the applicant**

agrees to undertake a suitable mitigation measure identified in the mitigation section of the municipality's Stormwater Management Plan. In such cases, the Applicant must submit a mitigation plan detailing how the project's failure to strictly comply will be compensated. In cases where a waiver is granted, an applicant should provide mitigation, if possible and/or practical within the same HUC-14 watershed within which the subject project is proposed, or contribute funding toward a regional stormwater control project, or provide for equivalent treatment at an alternate location, or other equivalent water quality benefit, in lieu of implementing the required stormwater control measures on their specific site.

G. Threatened and Endangered Species

When habitat for threatened and endangered species (see definition for Environmental Critical Areas in Section 57-2), is present on a site, stormwater management measures shall be implemented to avoid adverse impacts caused by pollutant discharge, the creation of concentrated flow, or the alteration of recharge.

§ 57-5 Calculation of Stormwater Runoff and Ground Water Recharge

A. Stormwater Runoff Calculations

1. In complying with the design and performance standards in Section 57-4, the design engineer shall calculate stormwater runoff using one of the following methods:
 - a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation, NRCS Dimensionless Unit Hydrograph, and appropriate NRCS 24-Hour design storm, as described in the current NRCS National Engineering Handbook Part 630 – Hydrology, and the current Technical Release 55 – Urban Hydrology for Small Watersheds or superseding document; or
 - b) The Rational Method for peak stormwater runoff rate calculations and the Modified Rational Method for stormwater runoff hydrograph calculations. Use of the Rational Method and Modified Rational Method are limited to drainage areas of 20 acres or less. Neither the Rational Method nor Modified Rational Method shall be used to calculate runoff volumes for ground water recharge or stormwater runoff infiltration purposes.
2. When selecting or calculating runoff coefficients for pre-developed project site conditions using any of the above methods, the project site's land cover shall be assumed to be woods. However, another land cover may be used to calculate runoff coefficients if: 1) such land cover has existed at the site or portion thereof site without interruption for at least five years immediately prior to the time of application; and 2) the design engineer can document the character and extent of such land cover through the use of photographs, affidavits, and/or other acceptable land use records. If more than one land cover other than woods has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential (including woods) shall be used for the computations. All pre-developed land covers shall be assumed to be in good hydrologic condition and, if cultivated, shall be assumed to have applied appropriate conservation practices.
3. In calculating pre-developed site stormwater runoff, the design engineer shall include the effects of all land features and structures, such as ponds, wetlands, depressions, hedgerows and culverts that reduce pre-developed site stormwater runoff rates and/or volumes.

4. In calculating stormwater runoff using the NRCS methodology, the design engineer shall use appropriate 24-Hour rainfall depths as developed for the project site by the National Oceanic and Atmospheric Administration.
5. In calculating stormwater runoff using the NRCS methodology, the design engineer shall separately calculate and then combine the runoff volumes from pervious and directly connected impervious surfaces within a drainage area.
6. Calculation of stormwater runoff from unconnected impervious surfaces shall be based, as applicable, upon the Two-Step methodology as described in the Department's current Stormwater Best Management Practices Manual or the NRCS methodology described in the current Technical Release 55 – Urban Hydrology for Small Watersheds.

B. Ground Water Recharge Calculations

1. In complying with the design and performance standards in Section 57-4, the design engineer may calculate ground water recharge in accordance with the New Jersey Groundwater Recharge Spreadsheet (NJGRS) computer program as described in the Department's current Stormwater Best Management Practices Manual. Alternative ground water recharge calculation methods may be used upon approval by the municipal engineer.
2. In complying with the design and performance standards in Section 57-4, the design engineer shall calculate stormwater runoff infiltration volumes in accordance with the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation, as described in the current NRCS National Engineering Handbook Part 630 – Hydrology and the current Technical Release 55 – Urban Hydrology for Small Watersheds. In addition, the design engineer shall use appropriate 2-Year, 24-Hour rainfall depths as developed for the project site by the National Oceanic and Atmospheric Administration.
3. When selecting or calculating runoff coefficients for pre-developed project site conditions for ground water recharge or stormwater runoff infiltration calculations, the project site's land cover shall be assumed to be woods. However, another land cover may be used to calculate runoff coefficients if:
 - a) such land cover has existed at the site or portion thereof site without interruption for at least five years immediately prior to the time of application; and

- b) the design engineer can document the character and extent of such land cover through the use of photographs, affidavits, and/or other acceptable land use records. If more than one land cover other than woods has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential (including woods) shall be used for the computations. All pre-developed land covers shall be assumed to be in good hydrologic condition and, if cultivated, shall be assumed to have conservation treatment.

§ 57-6 Standards for Structural Stormwater Management Measures

A. Structural Management Measures

Standards for structural stormwater management measures are as follows:

1. Structural stormwater management measures shall be designed to factor into the design the existing site conditions which may cause the measure to fail, have an adverse effect on water quality or quantity, or cause harm or damage to persons or property, including, for example, environmentally critical areas, wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability and texture; drainage area and drainage patterns; existing or former mines; significant land filling; and the presence of solution-prone carbonate rocks (limestone) and related Karst topography.
2. Structural stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure as appropriate, and shall have parallel bars with one-inch (1") spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third (1/3) the width of the diameter of the orifice or one-third (1/3) the width of the weir, with a minimum spacing between bars of one-inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of Section 57-8 B.
3. Structural stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement. The measures are to be sequenced in the site development process so that erosion control standards are met and so the measure is not compromised or impaired by construction runoff.

4. At the intake to the outlet from the stormwater management basin, the orifice size shall be a minimum of two and one-half inches in diameter.
5. Stormwater management basins shall be designed to meet the minimum safety standards for stormwater management basins at Section 57-8.
6. Where tailwater will affect the hydraulic performance of a stormwater management measure, the design engineer shall include such effects in the measure's design.

B. Guidelines for Management Measures

Stormwater management measure guidelines are available in the New Jersey Stormwater Best Management Practices Manual and other documents as described in Section 57-7. Other stormwater management measures may be utilized provided the design engineer demonstrates to the satisfaction of the review agency that the proposed measure and its design will accomplish the required water quantity, ground water recharge and water quality design and performance standards established by Section 57-4 of this ordinance.

C. Manufactured Treatment Devices

1. Manufactured treatment devices may be used to meet the requirements of Section 57-4 of this ordinance, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department.
2. Non-verified manufactured treatment devices may also be used for purposes other than underground discharge of stormwater, where such devices provide a clear benefit to stormwater quality or flow control in a manner that facilitates improved nonstructural stormwater management controls on the site, or avoids the need for approval of off-site mitigation. The benefits of proposed non-verified manufactured treatment devices must be proved to the satisfaction of the review agency.
3. Manufactured treatment devices may be used only where the maintenance plan required by Section 57-10 ensures that the manufactured device will be properly maintained for its functional lifespan and will be replaced as needed with management measures that are at least as effective as the original manufactured treatment device working in accordance with manufacturer's specifications.

§ 57-7 Sources for Technical Guidance

A. Primary Technical Guidance

Technical guidance for stormwater management measures can be found in the documents listed at 1 and 2 below, which are available from Maps and Publications, New Jersey Department of Environmental Protection, 428 East State Street, P.O. Box 420, Trenton, New Jersey, 08625; telephone (609) 777-1038.

1. Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended. Information is provided on stormwater management measures such as: bioretention systems, constructed stormwater wetlands, dry wells, extended detention basins, infiltration structures, manufactured treatment devices, pervious paving, sand filters, vegetative filter strips, and wet ponds. This document is also available at www.njstormwater.org.
2. The New Jersey Department of Environmental Protection Stormwater Management Facilities Maintenance Manual, (NJDEP Ocean County Demonstration Study, Stormwater Management Facilities Maintenance Manual, dated June 1989) as amended.

B. Additional Technical Guidance

Additional technical guidance for stormwater management measures can be obtained from the following:

1. The “Standards for Soil Erosion and Sediment Control in New Jersey” promulgated by the State Soil Conservation Committee and incorporated into N.J.A.C. 2:90. Copies of these standards may be obtained by contacting the State Soil Conservation Committee, P.O. Box 330, Trenton, New Jersey 08625; (609) 292-5540, or the Warren County Soil Conservation District, 224 Stiger Street, Hackettstown, NJ 07840 (908) 852-2579.
2. The Rutgers Cooperative Extension Service, 732-932-9306.
3. The Warren County Soil Conservation District, 224 Stiger Street, Hackettstown, NJ 07840 (908) 852-2579.
4. The United States Environmental Protection Agency, including the National Management Measures to Control Nonpoint Source Pollution from Urban Areas, available at the Web site: <http://www.epa.gov/owow/nps/urbanmm/index.html>.
5. Field guides of the United States Department of Agriculture, Natural Resources Conservation Service, where supplemental to and not conflicting with a source of Primary Guidance in Section 115-165.A.

6. Other similarly authoritative governmental or trade association sources acceptable to the municipality.

§ 57-8 Safety Standards for Stormwater Management Basins

A. General Scope

This section sets forth requirements to protect public safety through the proper design and operation of stormwater management basins. This section applies to any new stormwater management basin.

B. Requirements for Trash Racks, Overflow Grates and Escape Provisions

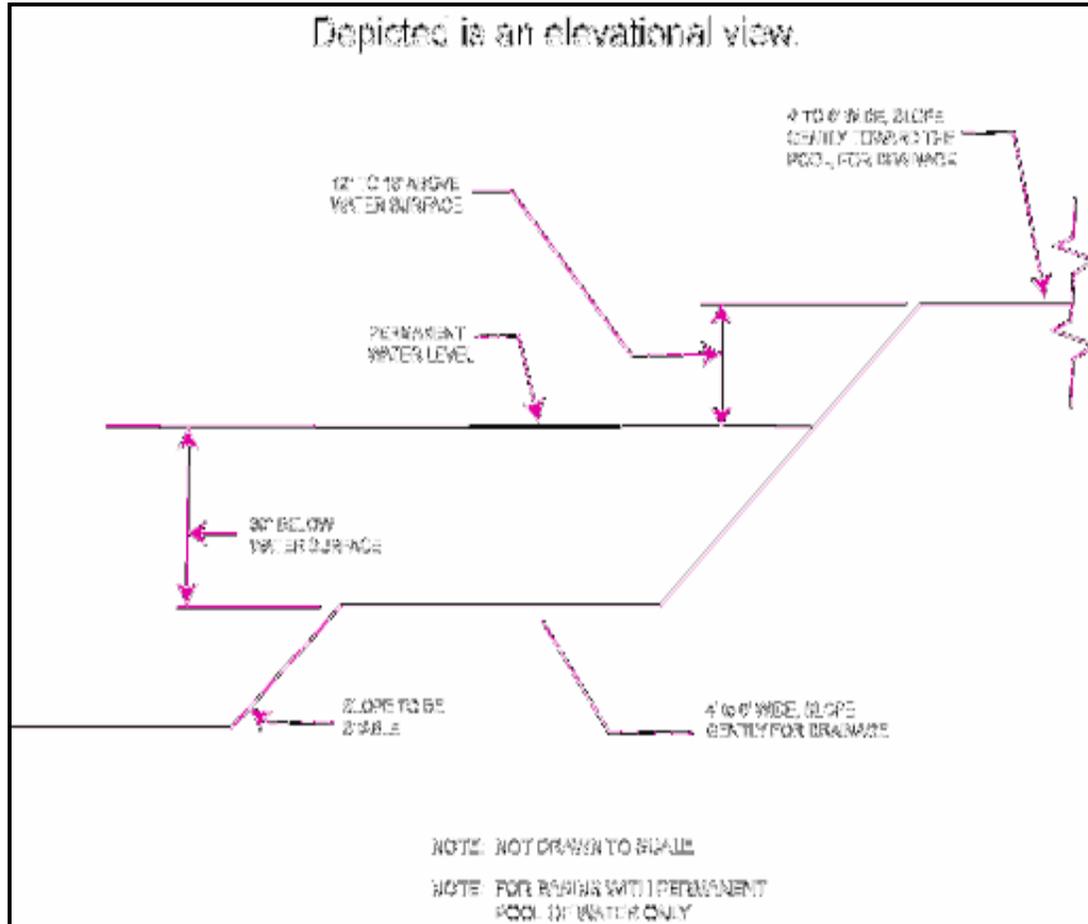
1. A trash rack is a device intended to intercept runoff-borne trash and debris that might otherwise block the hydraulic openings in the outlet structure of a structural stormwater management measure. Trash racks shall be installed upstream of such outlet structure openings to ensure proper functioning of the structural stormwater management measure in accordance with the following:
 - a) The trash rack should be constructed primarily of bars aligned in the direction of flow with a maximum bar spacing of approximately $\frac{1}{2}$ the diameter or width of the hydraulic opening it is protecting. Transverse bars aligned perpendicular to flow should be sized and spaced as necessary for rack stability and strength.
 - b) The trash rack shall not adversely affect the hydraulic performance of either the outlet structure opening it is protecting or the overall outlet structure.
 - c) The trash rack shall have sufficient net open area under clean conditions to limit the peak design storm velocity through it to a maximum of 2.5 feet per second.
 - d) The trash rack shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs/ft sq.
2. An overflow grate is a device intended to protect the opening in the top of a stormwater management measure outlet structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

- a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - b) The overflow grate spacing shall be no more than two inches across the smallest dimension.
 - c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 lbs./ft sq.
3. Structural stormwater management measures shall include escape provisions as follows:
- a) If a structural stormwater management measure has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions means the permanent installation of ladders, steps, rungs, or other features that provide readily accessible means of ingress and egress from the outlet structure.
 - b) Safety ledges shall be constructed on the slopes of all new structural stormwater management measures having a permanent pool of water deeper than two and one-half feet. Such safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See Section 57-8 D for an illustration of safety ledges in a stormwater management basin.
 - c) In new stormwater management basins, the maximum slope of the interior and exterior of an earthen dam, embankment, or berm shall not be steeper than 3 horizontal to 1 vertical in accordance with N.J.A.C. 7:8-6(c)3.
 - d) An emergency drawdown method for detention basins is required where the permanent pool will be more than two and one-half feet deep. This drawdown method must consider downstream or offsite stability at the outfall in accordance with the Standards for Soil Erosion and Sediment Control in New Jersey.

C. Variance or Exemption from Safety Standards

A variance or exemption from the safety standards for stormwater management basins may be granted only upon a written finding by the appropriate reviewing agency (municipality, county or Department) that the variance or exemption will not constitute a threat to public safety.

D. Illustration of Safety Ledges in a New Stormwater Management Basin



§ 57-9 Requirements for a Site Development Stormwater Plan

A. Submission of Site Development Stormwater Plan

1. Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at Section 57-9 C below as part of the submission of the applicant's application for subdivision or site plan approval.
2. The applicant shall demonstrate through Submission Requirements that the project meets the standards set forth in this ordinance.
3. The applicant shall submit to the approving municipal authority the required number of copies of the materials listed in the checklist for site development stormwater plans in accordance with Section 57-9 C of this ordinance.

B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the subdivision or site plan review process by the municipal board or official from which municipal approval is sought (the review agency). That review agency shall consult the engineer retained by the Planning and/or Zoning Board (as appropriate) to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

C. Submission Requirements

The information in Subsections 57-9 C.1 through 57-9 C.7 below shall be provided unless a waiver is approved through Subsection 57-9 C.8 below:

1. Existing Site Conditions Base Map, including topography, streams, roads and current built environment.

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 300 feet beyond the limits of the proposed development, at a scale appropriate to show site details, showing 2-foot contour intervals.

2. Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its environs. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally critical areas and to those that provide particular opportunities or constraints for development.

3. Project Description and Site Plan(s)

A map (or maps) at a scale appropriate for the site indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high ground water elevations. A written description of the site plan and justification of proposed changes in natural conditions may also be provided.

4. Stormwater Site Planning and Design Summary

This plan shall provide a demonstration of how the goals and standards of Sections 57-3 through 57-6 are being met, including both nonstructural and structural approaches. The focus of this plan shall be to describe how the site is being managed or developed to meet the objective of controlling ground water recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible. Refer to the Municipal Stormwater Management Plan for additional requirements. It should explain in full the maps required by this section.

5. Stormwater Management Facilities Map(s)

The following information, illustrated on a map at a scale appropriate for the site, shall be included:

- a) Total area to be paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, land area to remain in natural vegetation, and details of the proposed plan to infiltrate, manage, control and dispose of stormwater.
- b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention, and emergency spillway provisions with maximum discharge capacity of each spillway.

6. Calculations

- a) Comprehensive hydrologic and hydraulic design and discharge stability calculations for the pre-development and post-development conditions for the design storms specified in Section 57-4 of this ordinance.
- b) When the proposed stormwater management control measures (e.g., infiltration basins) depend on the hydrologic properties of soils, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure. The municipality shall be notified of site investigation activities and given the opportunity to have a witness, either prior to approval or as a condition of approval, as appropriate for the

specific type of measure. Subsequent to approval of the major development, post-construction bulk soil density and infiltration testing shall be required for all infiltration measures that were used as justification for meeting the recharge standard, to ensure that they were properly constructed.

7. Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of Section 57-10.

8. Waiver from Submission Requirements

The review agency may, in consultation with the municipal engineer, waive submission of any of the requirements in Sections 57-9 C.1 through 57-9 C.6 of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a significant economic hardship on the applicant to obtain and its absence will not materially affect the review process.

§ 57-10 Maintenance and Repair

A. Applicability

Projects subject to review pursuant to Section 57-1 C of this ordinance shall comply with the requirements of Sections 57-10 B and 57-10 C.

B. General Maintenance

1. The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development. This plan shall be separate from all other documents and designed for ongoing use by the site owners or operators in performing and documenting maintenance and repair, and by the municipality in ensuring implementation of the maintenance plan. The final maintenance plan shall be updated and provided to the municipality post-construction to include an evaluation based on the specifications of the initial maintenance plan and as-built conditions.
2. The maintenance plan shall contain specific preventive maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal and disposal; safety needs; identification of methods and disposal sites for materials removed during maintenance; maintenance requirements for created wetlands and other ecological systems; safety devices and systems; warranty and operational standards

from the manufacturers of any manufactured treatment devices (See Section 57-6 C); and the name, address, and telephone number of the person or persons responsible for preventive and corrective maintenance (including replacement), using maintenance guidelines for stormwater management measures from Section 64-31.6, the Municipal Stormwater Management Plan, Municipal Stormwater Pollution Prevention Plan and any relevant regional stormwater management plan. If the maintenance plan identifies a person other than the developer (for example, a public agency or homeowners' association) as having the responsibility for continuing maintenance, the plan shall include documentation of such person's agreement to assume this responsibility, or of the developer's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

3. Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project.
4. If the person responsible for maintenance identified under Section 57-10 B.2 above is not a public agency, the maintenance plan and any future revisions based on Section 57-10 B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
5. Preventive and corrective maintenance shall be performed to maintain the function of the stormwater management measures, including repairs or replacement to the structures; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of nonvegetated linings.
6. The person responsible for maintenance identified under Section 57-10 B.2 above shall maintain a detailed log of all preventive and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders.
7. The person responsible for maintenance identified under Section 57-10 B.2 above shall evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed.
8. The person responsible for maintenance identified under Section 57-10 B.2 above shall retain, submit annually to the municipality and make available, upon request by any public entity with administrative, health,

environmental, or safety authority over the site, the maintenance plan and the documentation required by Sections 57-10 B.6 and 57-10 B.7 above.

9. The requirements of Sections 57-10 B.3 and 57-10 B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency of competent jurisdiction.
 10. In the event that the stormwater management facility becomes a danger to public safety or public health or is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person.
- C. Nothing in this section shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.
- D. The maintenance plan shall specifically provide a specific municipal right of access for inspection of measures, and for maintenance if required under Section 57-10 B.10.

§ 57-11 Enforcement.

If at any time the Engineer finds existing conditions not as stated in the applicant's approved plan, the Engineer shall order cessation of all work and request the borough to seek to enjoin the violation or take such steps as may be necessary and lawful to enforce compliance with the plan.

§ 57-12 Violations and penalties.

- A. Any person who shall violate this chapter, or do any act or thing prohibited, or refuse or fail to do any act or thing required to be done, or refuse or fail to comply with any order of the Engineer or Planning Board made pursuant hereto, shall, upon conviction thereof, be subject for each violation to a penalty of not more than five hundred dollars (\$500.) or imprisonment for not more than ninety (90) days, or both. Whenever such person shall have been officially notified in

- writing by the Engineer or by service of a summons in a prosecution, or in any other official manner, that he is committing a violation, each day's continuation of such violation shall be deemed a separate offense.
- B. The Engineer may issue a stop-work order regarding any work undertaken under this chapter if he finds that the work is not being completed in compliance with this chapter or an order of the Planning Board issued pursuant thereto.
- C. The borough may apply to the courts for injunctive relief in order to obtain compliance with this chapter or a stop-work order issued hereunder

§ 57-13 Effective Date

This ordinance shall take effect immediately upon the approval by the county review agency, or sixty (60) days from the receipt of the ordinance by the Warren County Planning Board if the Warren County Planning Board, as county review agency, should fail to act.

§ 57-14 Severability

If the provisions of any section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

§ 57-15 Integration with other provisions.

This chapter shall be deemed a supplement to any and all provisions of this Code relating to land use and land use development, including but not limited to the provisions of Chapter 69, Sedimentation and Soil Erosion Control; Chapter 73, Soil Removal; and Chapter 94, Zoning and Land Development, and the requirements of this chapter shall be in addition to any requirements imposed therein. Nothing contained in this chapter shall be construed to repeal or amend any existing provisions of this Code, except where such is specifically required.

REPORTS

It was moved by Housel, seconded by Oakley that the Collector/Treasurer Report, Managers Report, Borough Engineer Report, Fire Prevention Report, Administration and Executive, Municipal Court, Library, and Employee Reports be accepted as presented and filed.

Council Discussion:

Councilman Turner stated he has concerns over possibly changing the width of Grand Avenue as indicated on the Borough Manager's Report. Councilman Turner indicated that a lot of curbing has been replaced on the street. Why was the width issue not discussed at that time. Manager Sheola explained that it is possible to reduce speed on the street if the width is reduced from 33% to 28%. Councilman Turner indicated he is against changing the width of Grand Avenue. Council concurred.

Mayor Van Deursen commented on the Water Resources Meeting with NJ American Water stating she saw a quote in the newspaper that indicates if the Borough ever has the need for additional water supply due to redevelopment; NJ American Water would address the need at that time. She stated that the Borough has the need for additional water now. Manager Sheola reported that NJ American Water is in the process of locating additional water supplies but the development and permitting time could take anywhere from twelve to thirty six months.

Councilwoman Woykowski asked the Borough Manager what assurances does the Borough have that the water capacity will be there when the Borough needs it. Manager Sheola stated that the Borough really has no assurances due to the fact that NJ American Water is a private company. Mayor Van Deursen suggested having Assemblywoman Marcia Karrow assist on this issue.

Mayor Van Deursen asked Borough Engineer, Clay McEldowney if he would look into the issue of the traffic light at Route 57 and North Prospect. The Borough has been waiting three to four years for a traffic light at the intersection; it continues to be a safety concern.

Councilwoman Oakley asked for clarification on the Change Order for Sunrise/Pickle Avenue which is listed as Resolution 222-2006 under New Business. The Borough Engineer, Clay McEldowney explained to Council that the contractor had difficulty with the excavation because of the conditions. There were water and moisture issues that caused the unforeseen delay of the excavation. Therefore the contractor requested a change order for supplemental compensation due to the fact that it was unforeseen.

Councilman Housel stated he does not believe the Borough should pay the negotiated amount of \$7,500.00 to the contractor when most of the items he is requesting payment for are due to his lack of management of the job.

Councilman Turner said the contractor did not staff this job properly and in his opinion he is in violation of the contract.

Attorney Cushing advised Council to look and see if there is a valid reason to not pay the contractor. Ideally the reasons should be supported by the professionals.

Borough Manager, Richard Sheola explained that this \$7,500.00 is for the extra excavation required because of the substandard soil conditions of the road.

Councilwoman Woykowski stated that on the breakdown of expenses the cost for the extra excavation is \$3,291.00. Manager Sheola clarified that in this case it has nothing to do with the amount of time it took to complete the job. It was actually the subsurface conditions that were not discovered until excavating began.

Councilman Housel stated that there is no breakdown of expenses to justify the additional expense.

Borough Attorney, Richard Cushing suggested to Council to have the contractor provide a supplemental memo to explain the additional payments. Council concurred that they will wait for additional information from the contractor.

Councilwoman Woykowski motioned to table Resolution 222-2006 until further information is received, seconded by Councilman Housel.

Roll Call: Turner, Oakley, Woykowski, Housel, and Van Deursen.

Ayes: 5, Nays: 0

Motion Carried.

Mayor Van Deursen suggested that the Borough Engineer or John Burd check out the corner of Carlton and North Prospect on the northeast side corner; water and mud are collecting there.

VOUCHERS:

Mayor Van Deursen entertained additions or questions of the vouchers and claims for payment.

Hearing no comments or questions it was moved by Housel, seconded by Turner that the vouchers and claims be approved for payment in the amount of \$ 1,293,473.41 as reflected in the debit/credit memorandum on file in the collector/Treasurer's office.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 5, Nays: 0.

Motion Carried.

OLD BUSINESS

Willow Street Drainage Ditch/Stream Cleaning

The Willow Street drainage ditch was addressed at the beginning of the meeting.

NEW BUSINESS

Downtown Redevelopment Budget Worksheets

Mayor Van Deursen asked Borough Manager, Richard Sheola subcategorize the spreadsheet he emailed to the Council the previous week. Manager Sheola and Councilwoman Woykowski agreed to review the worksheets for the redevelopment committee in a separate meeting. Mayor Van Deursen stated that as we move along with redevelopment and we continue to seek monies it will be great to have readily available a visual of how much the Borough has spent, how much we have received from grants, and how much we still need and what our future costs are projected to be.

Councilman Turner stated how important it is to differentiate from grant money and tax money.

Railroad Avenue Amortization Schedule

Manager Sheola stated that this information was requested by Councilwoman Woykowski.

October 24, 2006 Workshop Agenda

Council concurred that the Workshop Agenda will contain the following topics.

- Goal List
- Housekeeping Items (to be provided by Councilwoman Woykowski)

Resolution 228-2006

RESOLUTION #228-2006

A RESOLUTION TO REFUND POLICE REVENUE MONIES

WHEREAS, according to the Police Clerk monies received from the Police Department on September 29, 2006 in the amount of \$10.00 for Choice Point and \$20.00 for Metropolitan Reporting Bureau for the Discovery line item were accepted in error. The monies belong to another municipality, not Washington Borough; and

WHEREAS, the Police Clerk has ascertained that the above monies need to be refunded to the following agencies, \$10.00 to Choice Point, PO Box 740167, Atlanta, GA 30374-0167 and \$20.00 to Metropolitan Reporting Bureau, Expense Account No. 2, Wm. Penn Annex, PO Box 926, Philadelphia, PA 19105-0926

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Treasurer to refund the above amounts in the names of:

\$10.00 to:
Choice Point
PO Box 740167
Atlanta, GA 30374-0167

\$20.00 to:
Metropolitan Reporting Bureau
Expense Account No. 2
Wm. Penn Annex, PO Box 926
Philadelphia, PA 19105-0926

This Resolution was moved on a motion made by Councilman Housel seconded by Councilman Turner and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 5, Nays: 0
Motion Carried.

Resolution 229-2006

RESOLUTION # 229-2006

**A RESOLUTION TO REFUND OVERPAYMENT
ON 2006 CURRENT YEAR REAL ESTATE TAXES**

WHEREAS, according to the Tax Collector's records, there is an overpayment of \$1,554.32 on 2006 3rd Quarter Regular Taxes paid on property located at 300 Belvidere Avenue, also known as Block 035 Lot 013, and in the name of Turner, Andrew and Susan C; and

WHEREAS, Express Financial paid the 2006 3rd Quarter Regular Taxes on August 3, 2006 on behalf of the Turners and LSI Tax Services paid on August 16th for the Turners, which created the overpayment; and

WHEREAS, the Tax Collector has received a written request from LSI Tax Services requesting that the tax overpayment be refunded.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector and Treasurer to refund the amount of \$1,554.32 payable to:

LSI Tax Services
3100 New York Drive, Ste. 100
Pasadena, CA 91107
Attn: National Refunds/Jennifer Martinez

This Resolution was moved on a motion made by Councilwoman Oakley, seconded by Councilman Housel and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 4, Nays: 0
Abstain: 1 (Turner)
Motion Carried.

Resolution 230-2006

RESOLUTION 230-2006

**A RESOLUTION SUGGESTING A HALLOWEEN CURFEW AND
ESTABLISHING OBSERVANCE OF TRICK OR TREAT WITHIN THE
BOROUGH OF WASHINGTON, COUNTY OF WARREN, STATE OF NJ.**

WHEREAS, Halloween Night and several nights before and after have historically been nights when acts of criminal mischief and vandalism have increased throughout the municipality; and

WHEREAS, the Borough of Washington desires to take some action to help reduce the likelihood of such incidents by establishing a suggested curfew to assist parents and lawful guardians of minor children; and

WHEREAS, said curfew is viewed as an important part of maintaining the peace and order of the community and all persons are strongly urged to cooperate with the Borough of Washington Police Department abiding by the curfew. The Mayor and Council suggest that this curfew be imposed on all minors in their care and custody; and

WHEREAS, the door to door solicitation of treats is a tradition enjoyed by many as well as an annoyance and inconvenience to others and, therefore needs to be regulated to provide for the safety, health and welfare of all persons within the community.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that there is hereby established a suggested curfew for all persons seventeen (17) years of age or younger of 9:00 p.m. from Friday, October 20, 2006 up to and including Wednesday November 1, 2006. Curfew shall be extended for school-sponsored events to one (1) hour after the conclusion of the event.

BE IT FURTHER RESOLVED, that Trick or Treat shall be observed within the Borough of Washington on Tuesday October 31, 2006 from 4:00 p.m. to 7:00 p.m.

This Resolution was moved on a motion made by Councilwoman Oakley, seconded by Councilman Housel and approved.

Roll Call: Woykowski, Housel, Oakley, Turner, and Van Deursen.

Ayes: 5, Nays: 0

Motion Carried.

Resolution 231-2006

RESOLUTION 231-2006

**RESOLUTION IN SUPPORT OF NEW JERSEY LEGISLATIVE BILLS S-1199
AND A-2589**

WHEREAS, the Borough Council finds and declares trees are an important part of New Jersey's environments; and

WHEREAS, the Borough Council recognizes the importance of safe and proper tree care practices; and

WHEREAS, it is appropriate for tree care to be conducted by qualified, licensed and insured tree care experts to prevent injuries and damage to life and property; and

WHEREAS, Senate Bill No. S-1199 and Assembly Bill No. A-2589 of 2006 amends and supplements the Tree Expert Act, P.L. 1940 c.100 (C.45:15C-1 et seq) By (1) changing the title of "certified tree expert" to "licensed tree expert"; (2) increasing the membership and authority of the State Board of Tree Experts; (3) establishing new education requirements for licensing tree experts and tree care operators; (4) creating licenses and a registration system for tree care operators; (5) requiring that tree care employers are registered and carry minimum levels of liability insurance and (6) establishing penalties for violating certain portions of the act.

IT IS THEREFORE RESOLVED that the Borough Council of the Borough of Washington supports the passage of New Jersey Legislative Bills S-1199 and A-2589

This Resolution was moved on a motion made by Councilwoman Oakley, seconded by Councilman Housel and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 4, Nays: 1 (Turner)

Motion Carried.

Resolution 232-2006

RESOLUTION 232-2006

**A RESOLUTION AWARDING BID FOR THE CORNISH AVENUE
RECONSTRUCTION**

WHEREAS, the Borough of Washington advertised in the Star-Gazette for qualified bidders for the above project; and

WHEREAS, the Borough received two (2) bids from contractors at the Bid Opening on October 12, 2006; and

WHEREAS, the bids received are depicted below; and

Concrete Masters Newark NJ	\$335,503.00
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Marvec Construction Verona NJ	\$350,841.00
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WHEREAS, the Mayor and Council of the Borough of Washington wishes to award the contract to the lowest responsible bidder if it is in the best interest of the Borough of Washington to do so; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey award the bid to Concrete Masters, Newark NJ for the Reconstruction of Cornish Street in the amount of \$335,503.00 and authorize the Borough Manager to prepare the contract documents as soon as possible as for the Mayor and Borough Clerk and any other municipal official to execute the contracts. A Certification of Available Funds is attached and made part of this document; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to Richard J. Sheola, Manager, Robert Miller, Borough Engineer and Concrete Masters.

This Resolution was moved on a motion made by Councilwoman Oakley, seconded by Councilman Housel and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 5, Nays: 0
Motion Carried.

Resolution #233-2006

RESOLUTION # 233-2006

**RESOLUTION OF THE BOROUGH OF WASHINGTON APPOINTING
COUNCILWOMAN CHRISTINA WOYKOWSKI TO THE REDEVELOPMENT
COMMITTEE**

WHEREAS, the Governing Body of Washington Borough has previously established a Redevelopment Committee; and

WHEREAS, the Mayor has been asked by one of its members, Councilman Charles, “Terry” Housel that a replacement be appointed in his place; and

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of Washington Borough in the County of Warren, State of New Jersey, that Councilwoman Christina Woykowski is hereby appointed by the Governing Body of Washington Borough to the Redevelopment Committee.

This Resolution was moved on a motion made by Councilwoman Oakley, seconded by Councilman Housel and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 5, Nays: 0
Motion Carried.

Resolution 235-2006

**A RESOLUTION REJECTING BID FOR THE BOROUGH POOL
RENOVATION**

WHEREAS, the Borough of Washington advertised in the Star-Gazette for qualified bidders for the above project; and

WHEREAS, the Borough received one (1) bid from a qualified contractor at the Bid Opening on August 29, 2006 for the above project; and

WHEREAS, the bids received were:

RJR Engineering Co., Inc Califon, NJ	\$457,500	Base Bid
	\$95,000	Alternate - Wading Pool
	\$95,000	Alternate – Water Slide
	\$7,500	Alternate – Dew Drop
	\$14,000	Alternate – Sheet Flow

	\$8,500	Alternate – Cross Bar Jet
	\$28,500	Alternate – Winter Cover
Grand Total	\$706,000	

WHEREAS, the Recreation Commission has recommended the bid be rejected and a re-bid take place; and

WHEREAS, the Mayor and Council of the Borough of Washington wish to reject the bid for this work as the prices bid are substantially higher than the aquatics consultant estimate for the work; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, reject the bids for the Pool Renovation Project as noted and so advise the Borough Manager and Recreation Commission and authorize a re-bid; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to Richard Sheola, Borough Manager, Dawn Higgins, Recreation Commission Chairperson and Wayne Wade, Aquatics Consultant.

This Resolution was moved on a motion made by Housel, seconded by Turner and approved.

Roll Call: Woykowski, Housel, Turner, Oakley, and Van Deursen.

Ayes: 5, Nays: 0
Motion Carried.

Approval of NJ State Firemen’s Association Applicant – Thomas E. Fox Jr.

This Firemen’s Association applicant was approved on a motion made by Turner, seconded by Housel.

Roll Call: Housel, Tuner, Woykowski, Oakley, and Van Deursen.

Ayes: 5, Nays: 0
Motion Carried.

COUNCIL REMARKS:

Councilwoman Oakley stated that she would like to discuss the Van Cleef agreement at the next meeting.

Councilman Tuner - None

Councilwoman Woykowski – None

Councilman Housel – None

Mayor Van Deursen - None

RECAP

EXECUTIVE SESSION:

It was moved by Councilwoman Oakley, seconded by Councilman Housel that Council go into Executive Session.

Roll Call: Turner, Van Deursen, Woykowski, Oakley, and Housel.

Ayes: 5, Nays: 0.

Motion Carried.

RESOLUTION 236-2006

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Washington, in the County of Warren and State of New Jersey as follows:

1. The public shall be excluded from the remaining portion of this meeting.
2. The general nature of the subject matter to be discussed is as follows:
 - Potential Litigation
 - Contract Negotiations

- Personnel

It was moved by Housel, seconded by Turner that Council go out of Executive Session and back into open session at 11:00 p.m.

Ayes: 5, Nays: 0.
Motion Carried.

Hearing no further business to come before the governing body, it was moved by Housel, seconded by Turner that the meeting be adjourned.

Marianne Van Deursen
Mayor

Kristine Blanchard, RMC
Borough Clerk